

Interim Decision #2070

MATTER OF VAILLANCOURT

In Visa Petition Proceedings

ATL-N-1311

Decided by Regional Commissioner November 16, 1970

To qualify for classification as a nonimmigrant intra-company transferee under section 101(a)(15)(L) of the Immigration and Nationality Act, as amended, the beneficiary must have been employed abroad continuously for at least one year immediately before coming to the United States in a capacity that was executive, managerial or involved specialized knowledge, and must be coming to continue serving the same employer (or a subsidiary or affiliate) in one of those capacities.

The District Director denied the application on the ground that beneficiary has not been employed abroad for one year by the petitioner in an executive or managerial capacity and then certified this matter to the Regional Commissioner for review and decision. Petitioner has submitted a written statement for our consideration.

The petitioner, a division or subsidiary of an American corporation, desires to bring the beneficiary to the United States temporarily to serve in the capacity of Service and Parts Manager at its location in Georgia. The beneficiary is a native and citizen of Canada. He has been employed continuously in Canada by the petitioner since November 23, 1964.

According to the record, beneficiary's experience and training has been obtained by his working for the petitioner as a clerk (shipping and receiving), as a sales correspondent and then as sales assistant. The petitioner believes the beneficiary qualifies as a manager under section 101(a)(15)(L) of the Act, as amended by Public Law 91-225 enacted on April 7, 1970, and in any event on the basis that the position he will hold in the United States involves specialized knowledge.

Petitioner states that no individual, without beneficiary's specialized knowledge, could successfully operate as Service Parts